

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1691.01
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: February 15, 2001
DATE OF REPORT: March 29, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: April 27, 2001

COMPLAINT ISSUES:

Whether the Gary Community School Corporation violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's *individualized education program* (the "*IEP*") as written, specifically:

- a. failing to provide assistive technology devices;
- b. failing to provide adult assistance on a daily basis in the academic environment; and
- c. failing to provide instruction in use of assistive technology devices.

511 IAC 7-21-5(b) with regard to the school's alleged failure to include in its disaster plan, provisions for warning and evacuating this student with a disability who requires special warning and evacuation procedures.

During the course of the investigation, two additional items were identified, which are:

Whether the Gary Community School Corporation violated:

511 IAC 7-27-7(a) with regard to the school's failure to implement the student's *IEP* as written, specifically, failing to provide a low mat table.

511 IAC 7-27-6(5) with regard to the school's failure to include the initiation and duration of services dates in the *IEP*.

The original complaint investigation report due date was March 16, 2001; however, an extension of time was granted to March 30, 2001, in order to obtain additional information from the Complainant.

FINDINGS OF FACT:

1. The student (the "Student") is seventeen years old and is a senior at the local high school (the "School"). The Student is eligible for special education and related services as a student with an orthopedic impairment ("OI").
2. The Student was involved in an accident during the summer of 2000, and was hospitalized until being discharged on September 14, 2000. The local school corporation conducted a physical therapy evaluation on September 29, 2000. The case conference committee (the "CCC") met on October 5, 2000, and wrote an *IEP*. The Corporation conducted an assistive technology assessment (the "Technology Assessment") on October 13, 2000.

3. Page ten, Section P of the *IEP* is the initiation and duration of services dates section. Entries for both the initiation and duration of services dates have "N.A." written in them.
4. Page five of the *IEP* lists that the Student needs adaptive assistive technology (computer, software, tape recorder) and adult supervision: assistance with interaction within classroom. Page nine of the *IEP* states "one-on-one adult assistance to assist with all needs mentioned on page five assis...technology... computer for written communication." The *IEP* also states in several places that the Student requires "Adult assistance 100% of the time in the academic environment." The modifications/accommodations checklist page identifies the Student's need for a tape recorder and a computer. Page nine of the *IEP* also lists a low mat table as a supplementary aid for assisting the Student.
5. The following includes some of the recommendations made as a result of the Technology Assessment.
 - a personal assistant who functions at an academic level similar to the Student, who is in a gifted and talented program and requires assistance with advanced subjects.
 - extensive computer training in order to foster eventual independence.
 - special software to improve typing speed.
6. The Technology Assessment *Materials Request* form includes the following equipment to be purchased for the Student.
 - Mobile magician (sit-to-stand chair)
 - Dragon Naturally Speaking v.5.0
 - Co-writer (word prediction software)
 - Key guard
 - Desktop compatible computer with a printer.
 - Intel Pentium III 750 MHZ
 - 128 mb SD-Ram
 - 15 gb Hard Drive
 - 52x CD-ROM
 - 8mb AGP Video
 - PCI Sound
 - 56k.90 Modem
 - 10/100 LAN
 - Keyboard, Mouse, Microphone, and Speakers
 - Mini-Tower ATX Case
 - Windows 98 Second Edition
 - MS office Professional Suite
 - 17" SVGA Monitor

The purchasing information indicated on the *Materials Request* form lists the catalog, page number, item number, and cost for items a. and c. The information on the *Materials Request* form lists the name of an assistive technology company where item b. and all the items listed in e. can be purchased.

7. The complainant (the "Complainant") reported that the Student did not receive the mat table until on or about December 12, 2000. She stated that she finally went to another school where the mat table was located and found that no work order had been completed to move the mat table to the Student's School.
8. The Complainant reported that the Student was finally provided a lap top computer on December 7, 2000. The software was provided to the Student on December 11, 2000. An individual from the

school corporation took the computer over the winter break to install the software. When the Student got the computer back on January 8, 2001, it was not functioning. The Complainant met with an individual from the corporation's assistive technology team on January 9, 2001, in an attempt to get the computer operational. That individual had not been notified or made aware of anything regarding the Student's needs; however, the individual attempted to get the software operational. When the Complainant took the equipment home, the computer still was not functioning correctly. The Complainant reported that none of the items indicated from the *Materials Request* form have been what the Student has received.

9. The Complainant reported that the Student has had three personal assistants this year. The Complainant assisted the Student for almost a month, beginning October 18, 2000. The first individual began assisting the Student sometime in November 2000; however, she kept disappearing after taking the Student to his classes. The first individual lasted approximately two weeks. A second individual then began assisting the Student; however, this individual had an attendance problem and frequently was not available to assist the Student from the bus in the morning. The Student's third assistant began on February 26, 2001.
10. The supervisor of special education programs (the "Supervisor") reported the following with respect to the Student's personal assistant. "An individual paraprofessional has been assigned to [Student] since the early part of November. However, as a result of monitoring [Student's] progress, the position has been upgraded to a tutor. The upgrade from paraprofessional to tutor is to better assist [Student] with his classes in the Gifted and Talented program."
11. The Supervisor submitted a checklist (the "Checklist") that is entitled "*IEP Preparedness Plan for Students with Disabilities*." The following includes a sample of items that are found on the Checklist. In-service of Staff, Clearly marked exits, ramped exits. Items on the Checklist are either marked with a "Yes" or a "No." No written procedures are included on the Checklist, nor demonstration that training has been provided to staff with regard to assisting the Student with evacuation from the School in case of an emergency.
12. On March 15, 2001, a request for ten additional items of information was faxed to the local director of special education (the "Director"). The request included such items as employment verification and attendance information for those individuals hired to provide personal assistance to the Student, assistive technology equipment manufacturer names, models provided to the Student, and a copy of the evacuation plan. The fax transmission to the director's office was successful, and was followed up with a telephone call to the Director's office. The request included a due date of March 22, 2001, for the additional information to be faxed to the Division. The additional information was not submitted to the Division.

CONCLUSIONS:

1. Findings of Fact #4, #5, #6, #7, #8, #9, #10 and #12 indicate that the Student did not receive the assistive technology devices, the adult assistance on a daily basis in the academic environment, instruction in the use of the assistive technology devices, or the low mat table. A violation of 511 IAC 7-27-7(a) occurred with regard to implementing the Student's *IEP* as written.
2. Findings of Fact #11 and #12 indicate that there is no disaster plan with provisions for warning and evacuating the Student in case of an emergency. A violation of 511 IAC 7-21-5(b) occurred.
3. Finding of Fact #3 indicates that the Student's *IEP* does not include the requisite initiation and duration of services dates. A violation of 511 IAC 7-27-6(5) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Gary Community School Corporation shall:

1. convene the Student's CCC meeting no later than April 15, 2001, to determine compensatory services to be provided to the Student. **A copy of the CCC Report and IEP indicating the amount of compensatory services to be provided the Student until the end of the 2000-01 school year shall be submitted to the Division no later than April 25, 2001.**
2. develop a disaster plan that specifies provisions for warning and evacuating the Student and similarly situated students who require special warning and evacuation procedures. **A copy of the disaster plan shall be submitted to the Division no later April 25, 2001.**
3. conduct an inservice training with all School professional personnel regarding the requirement to include initiation and duration of services dates when writing *IEPs*. **A copy of the inservice training agenda, any written materials presented, and a sign-in sheet of attendees shall be submitted to the Division no later than April 25, 2001.**